

1 ROB BONTA, State Bar No. 202668
2 Attorney General of California
3 JOANNA B. HOOD, State Bar No. 264078
4 Supervising Deputy Attorney General
5 NECULAI GRECEA, State Bar No. 307570
6 Deputy Attorney General
7 300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
Telephone: (213) 269-6443
Fax: (916) 761-3641
E-mail: Neculai.Grecea@doj.ca.gov
Attorneys for Defendants
R. Recarey, L. Bird, and K. Allison

BENJAMIN M. RUDIN, State Bar No. 292341
3830 Valley Centre Dr., Ste. 705, PMB 231
Tel: (858) 256-4429
E-mail: ben@benrudin.law
Attorney for Plaintiff
Kevin Hagan

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

KEVIN HAGAN,
Plaintiff,
v.
RAUL RECAREY, et al.,
Defendants.

1:22-cv-00562-AWI-EPG

**ORDER RE: JOINT STIPULATION AS TO
THIRD AMENDED COMPLAINT AND
CASE DEADLINES**

WHEREAS, on May 9, 2022, Plaintiff, initiated this lawsuit by filing a Complaint alleging Eighth Amendment violations against Defendants R. Recarey, L. Bird, and K. Allison (“Defendants”) (ECF No. 1);

WHEREAS, on May 11, 2022, the Court ordered the parties to attend a formal Scheduling Conference on September 13, 2022 (ECF No. 4);

WHEREAS, on May 16, 2022, Defendants filed their notice of intent to waive service (ECF No. 11);

1 WHEREAS, on June 13, 2022, the Court issued an Order re: Early Settlement Conference,
2 requiring that the parties meet-and-confer about settlement and Defendants opt out of an early
3 settlement conference, if necessary, by July 29, 2022;

4 WHEREAS, on July 14, 2022, the Court granted the parties' stipulation to modify deadlines
5 to enable Plaintiff to file his First Amended Complaint (ECF No. 15);

6 WHEREAS, on September 20, 2022, Plaintiff filed his First Amended Complaint (ECF No.
7 18);

8 WHEREAS, on September 26, 2022, Defendants requested that the Court screen the First
9 Amended Complaint (ECF No. 20);

10 WHEREAS, on January 6, 2023, the Court screened the First Amended Complaint,
11 dismissed Defendants, and provided Plaintiff the opportunity to file a Second Amended
12 Complaint (ECF No. 21);

13 WHEREAS, on February 2, 2023, Plaintiff filed his Second Amended Complaint and a
14 request for injunctive relief against Defendants H. Longia, J. Mevi, M. Son, and S. Gates (ECF
15 No. 22)¹;

16 WHEREAS, the parties have conferred and Plaintiff wishes to file a Third Amended
17 Complaint, removing Defendant S. Gates and adding Defendant C. Eskander;

18 WHEREAS, the Court would have to screen the Third Amended Complaint, issue
19 summons, find service appropriate, and direct e-service on the new defendants after the Third
20 Amended Complaint is filed²;

21 WHEREAS, on February 28, 2023, the Court gave Plaintiff until May 23, 2023 to file the
22 Third Amended Complaint (ECF No. 25);

23 WHEREAS, Plaintiff's Counsel is still waiting on a correspondence from Plaintiff that he
24 needs to be able to file the Third Amended Complaint (Decl. of Benjamin Rudin ¶ 3);
25

26 ¹ The Attorney General's Office, specially appearing on behalf of S. Gates, opposed the
27 request for injunctive relief. (See ECF No. 23.) The Second Amended Complaint is currently
pending screening, but its screening will be mooted by the filing of a Third Amended Complaint.

28 ² As they have before, Defendants will request that the Court screen the Third Amended
Complaint pursuant to the Prison Litigation Reform Act. 28 U.S.C. § 1915A(a).

1 WHEREAS, Defendant C. Eskander is no longer Plaintiff's doctor. Plaintiff still wishes to
2 add him along with his current doctor.

3 NOW, THEREFORE, the parties stipulate and agree to a two-week extension of the current
4 schedule to allow Plaintiff's Counsel to receive the correspondence and file the Third Amended
5 Complaint:

6 1. Plaintiff shall file his Third Amended Complaint on or before June 6, 2023;
7 2. Defendants shall request screening of the Third Amended Complaint within fourteen
8 (14) days of its filing, and Defendants shall answer the Third Amended Complaint sixty (60) days
9 after the new defendants' notice of intent to waive service;
10 3. The Scheduling Conference is continued to a date to be determined by the Court at a
11 later time and by separate order;
12 4. The Parties' deadline to meet-and-confer regarding settlement and Defendants'
13 deadline to opt out of an early settlement conference are continued to dates to be determined by
14 the Court at a later time and by separate order.

15
16 Dated: May 23, 2023

Respectfully submitted,

17 ROB BONTA
18 Attorney General of California
19 JOANNA B. HOOD
20 Supervising Deputy Attorney General

21 /s/ Neculai Grecea
22 NECULAI GRECEA
23 Deputy Attorney General
24 *Attorneys for Defendants*
25 *R. Recarey, L. Bird, and K. Allison*

26 /s/ Benjamin Rudin
27 BENJAMIN RUDIN
28 *Attorney for Plaintiff*
 Kevin Hagan

ORDER

Based on the parties' stipulation (ECF No. 27), IT IS ORDERED that:

1. Plaintiff shall file his Third Amended Complaint on or by June 6, 2023;
2. Defendants shall request screening of the Third Amended Complaint within fourteen days of its filing and the Court will screen the Third Amended Complaint;
3. Defendants shall answer the Third Amended Complaint within sixty days after the new defendants are served and file their notice of intent to waive service;
4. The Court will issue a new Order Setting Mandatory Scheduling Conference; and
5. The Court will issue a new Order Regarding Early Settlement Conference.

IT IS SO ORDERED.

Dated: May 25, 2023

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE